

Before the State of South Carolina  
Department of Insurance

In the matter of:	)	Consent Order
	)	Imposing Administrative Fine
Maynard D. Barker, III,	)	
	)	Investigation File Number
6 McIntosh Road	)	100629
Hilton Head Island, S.C. 29926.	)	
_____	)	

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Maynard D. Barker, III, a licensed State of South Carolina resident insurance agent.

Barker hereby admits, and I find as fact, that, while licensed by the Department to do business as a resident insurance agent within the State of South Carolina, Barker wrote an umbrella policy for a customer and received payment to cover the annual premium. Approximately nine months into the proposed policy period he notified the customer that he was having difficulty obtaining the requested insurance. To date, Barker has been unable to obtain the policy. Barker contends that his failure to notify the customer of the delay in obtaining coverage, and his failure to deliver a policy was coincidental and not an attempt to circumvent the insurance laws of this State. In addition, Barker asserts that he bound coverage with an out of state broker with which he had done business on many occasions, that the broker then failed to produce the policy, and that Barker believed he could convince the broker to produce the policy as it was his understanding it had agreed to do. The record shows that Barker believed that he would be able to obtain the requested insurance, and that he diligently pursued the broker for the insurance. These actions are a violation of S.C. Code Ann. Sections 38-43-130(5) and 38-43-130(6) (Supp. 1999) and can ultimately lead to revocation of his license to transact the business of insurance as a resident insurance agent in South Carolina following a public hearing at the Administrative Law Judge Division.

Rather than proceeding toward a formal public hearing, the parties agreed to submit the entire matter to me, along with the specific recommendation, for my summary decision based solely on the record. That recommendation was that Barker would waive his right to a public hearing and pay a negotiated and consensual administrative fine of \$1,000 and agree to take six hours of continuing insurance education beyond that required by S.C. Code Ann. Section 38-43-106, to be completed within 90 days of the date of this order.

S.C. Code Ann. Section 38-43-130 provides, "The director or his designee may revoke or suspend an agent's license after ten days' notice or refuse to reissue a license when it appears that an agent has been convicted of a crime of moral turpitude, has violated this title or a regulation promulgated by the Department, or has wilfully deceived or dealt unjustly with the citizens of this State." Subsection (5) of that section goes on to define "wilfully deceived or dealt unjustly with the

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citizens of this State” to include failing to deliver promptly a policy, endorsement, or rider to any insured.” Subsection (6) of that section goes on to define “wilfully deceived or dealt unjustly with the citizens of this State” to include failing to notify promptly the customer or insured if the agent has been unable to obtain the requested insurance for him.

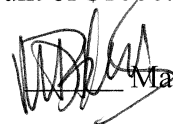
After a thorough review of the record, carefully considering the recommendation of the parties, and in accordance with my findings of fact, I now conclude, as a matter of law, that Barker has violated the law governing licensed agents, and although I can revoke Barker’s insurance agent’s license, I hereby impose an administrative fine of \$1,000 pursuant to the authority provided to me by the State of South Carolina General Assembly in S.C. Code Section 38-2-10 (Supp. 1999). This administrative fine must be paid within ten days of my date and signature upon this Consent Order Imposing Administrative Fine. I also require Barker to undergo six additional hours of continuing insurance education courses beyond the statutory requirement of S.C. Code Ann. § 38-43-106 (Supp. 1999) within 90 days of the date of this order. Barker must provide to the Department the original certificates of attendance proving his completion of this requirement within 90 days of the date of this order. These hours may not be fulfilled via correspondence courses and will not be eligible for the carry-over pursuant to S.C. Code Ann. § 38-43-106 (Supp. 1999). If that total amount is not timely paid, or if Barker does not provide the required proof of his timely having taken the additional continuing insurance education courses, his insurance agent’s license to transact business as a resident insurance agent within the State of South Carolina will be summarily revoked without any further administrative disciplinary proceedings.

This administrative fine has been reached by the parties as a result of negotiation and compromise and in consideration of Barker’s assurance that in the future he will ensure policies, endorsements, or riders are delivered promptly to customers. Furthermore, if he is unable to obtain coverage for an insured, he will promptly notify the customer of this fact.

By his signature upon this consent order, Barker acknowledges that he understands this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina’s *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 1999).

Nothing contained in this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained in this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained in this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department to “report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report.”


It is therefore, ordered that Maynard D. Barker shall pay through the State of South Carolina Department of Insurance, an administrative fine in the total amount of \$1000.



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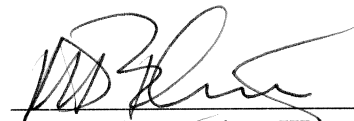
It is further ordered that a copy of this consent order shall be transmitted to the National Association of Insurance Commissioners for distribution to its member states and to each insurer for which Maynard D. Barker is currently licensed to transact business as a resident insurance agent within the State of South Carolina.

This consent order becomes effective as of the date of my signature below.

  
Ernst N. Csiszar  
Director

February 2<sup>nd</sup>, 2000 at  
Columbia, South Carolina

I Consent:

  
Maynard D. Barker, III  
6 McIntosh Road  
Hilton Head Island, South Carolina 29926

Dated this 25<sup>th</sup> day of January, 2000